

SECTIONAL ANALYSIS

Section 1. This section amends chapter 137 of Title 10, United States Code, so as to permit the omission of an examination of records clause from a contract with a foreign contractor or foreign subcontractor if the agency head determines that the omission will serve the best interest of the Government. The authority to make such a determination is not delegable below the head of the agency and is subject to the concurrence of the Comptroller General of the United States or his designee in cases where the clause is to be omitted from contracts or subcontracts with contractors or subcontractors other than a foreign government or its agencies, or foreign contractors or foreign subcontractors that are precluded by the laws of the country involved from making their records available. The omission of the clause from contracts with foreign subcontractors is necessary in those instances where a domestic contractor is dependent on a foreign subcontractor who will not execute a subcontract which contains the examination of records clause.

Section 2. This section amends section 304(c) of the Federal Property and Administrative Services Act of 1949 (63 Stat. 395), as added by the Act of October 31, 1951 (65 Stat. 700; 41 U.S.C. 254(c)), in substantially the same manner that Section 1 amends Chapter 137 of Title 10, United States Code, except that there is no requirement in this section that the determination to omit the examination of records clause from a contract be submitted in writing to the Comptroller General. The latter requirement is currently contained in section 307(c) of the mentioned Act.

Section 3. This section amends section 3(b) of the Act of August 28, 1953 (50 U.S.C. 1433(b)), in substantially the same manner that Section 1 amends Chapter 137 of Title 10, United States Code. This section is to be exercised only under regulations issued by the President. In the light of the limitations on the authority to make the determinations as set out in Section 1 and Section 2 of the Bill, it is anticipated that the regulations issued by the President will contain the same limitation.